

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

LAWRENCE I. FRIEDMANN,

Plaintiff,

- against -

RAYMOUR FURNITURE CO., INC., and
LUCY GOLDSTEIN, individually,

Defendants.

**JOINT
PRE-TRIAL
ORDER**

12 CV 1307
(LDW)(AKT)

WEXLER, District Judge:

The parties having conferred among themselves and pursuant to Rule 4.A. of the Individual Rules of the Honorable Leonard D. Wexler, U.S.D.J., Plaintiff Lawrence I. Friedmann (“Plaintiff” or “Friedmann”) and Defendant Raymour Furniture Company, Inc., d/b/a Raymour & Flanigan Furniture (“Defendant” or “Raymour & Flanigan”),¹ submit the following Joint Pre-trial Order in this matter:²

¹ By Order dated October 16, 2012, this Court dismissed all of Plaintiff’s claims under the New York State Human Rights Law, including the claims against the individual defendant. “Defendant Raymour [& Flanigan]’s motion to dismiss is granted . . . to the extent that Plaintiff’s NYSHRL claims are dismissed, but is otherwise denied.” Of Plaintiff’s four (4) original causes of action, two (2) remain against Raymour & Flanigan: (i) age discrimination in violation of the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 623 *et seq.* and (ii) disability discrimination in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12112 *et seq.*

² Pursuant to the Individual Rules of Judge Wexler, Rule 4.A. “the parties shall submit, within sixty days from the date for the completion of discovery . . . a joint pretrial order.” Plaintiff, however submits that only the Plaintiff has completed production and that he therefore goes to trial significantly debilitated. In addition, Plaintiff’s Mar. 20, 2013 Objection to Magistrate Tomlinson’s rulings has not been decided and that when it is, Plaintiff would reserve his right to amend his contributions of this Pre-trial Order. *See also, n.3 infra.*

I. FULL CAPTION

The full caption of this case appears in the caption to this Joint Pre-trial Order.

II. TRIAL COUNSEL

A. Trial Counsel for Plaintiff is as follows:

Walker G. Harman, Jr., Esq.
Peter J. Andrews, Esq.
The Harman Firm, PC
200 West 57th Street, Suite 900
New York, New York 10019
(212) 425-2600

B. Trial Counsel for Defendant is as follows:

Tara Eyer Daub, Esq.
Jessica Chiclacos, Esq.
Nixon Peabody LLP
50 Jericho Quadrangle
Suite 300
Jericho, New York 11753
(516) 832-7500 (telephone)
(516) 832-7555 (facsimile)

III. STATEMENT PERTAINING TO TRIAL

- A. Plaintiff's statement: Pursuant to the Court's Individual Practice Rule 4.A.iii., Plaintiff respectfully reiterates that he "demands a trial by jury." Compl. ¶ 10. It is Plaintiff's understanding that he will require approximately two (2) days to try this action. That estimate is not inclusive of the time required to select members of the jury or to cross-examine witnesses called by Defendant.
- B. Defendant's statement: Plaintiff has demanded a jury trial. Defendant estimates that the presentation of its case will take two (2) days.

IV. LIST OF FACT WITNESSES FOR CASE IN CHIEF

A. Plaintiff reserves the right and intends to call the following witnesses to testify at trial:³

1. Plaintiff Lawrence I. Friedmann (will testify in person)
2. Lucy Goldstein (will be called to testify in person)
3. Iman Kasmi or Khazmi (Assistant Store Manager, will be called to testify in person)
4. Anthony Baines (Assistant Store Manager, will be called to testify in person)
5. Anthony Bender (Regional Sales Manager, will be called to testify in person)
6. James “Jim” Powers (Regional Vice President, will be called to testify in person)
7. Michael Mosca (Sales Associate, will be called to testify in person)
8. Joseph Moscon (Sales Associate, will be called to testify in person)
9. Judith or Judit Rubin (Sales Associate, will be called to testify in person)
10. Danguole Pasyte (Sales Associate, will be called to testify in person)
11. Laura D’Ambrosio (in person)
12. Patricia DelGenio (VP of Defendant’s HR)

³ Plaintiff is unable to submit a complete list of witnesses unless or until the Defendant is directed to produce the identities of the people against whom Plaintiff was judged to have inferior sales figures at the time of his termination. *See, e.g.*, Plaintiff’s Feb. 8, 2013 Second Amended Motion to Compel Defendant[] to Produce Discovery (Docket Entry 37), as well as Plaintiff’s Mar. 20, 2013 Objection to Magistrate Judge Tomlinson’s Orders Regarding Discovery (Docket Entry 46), which has yet to be decided and finally, Plaintiff’s Mar. 21, 2013 Letter regarding Defendant’s production during discovery and Defendant’s forthcoming motion for summary judgment (Docket Entry 47).

Plaintiff reserves the right to call any witnesses at trial listed below by Defendant or to not call any of the witnesses identified by Plaintiff. In addition, Plaintiff reserves the right to call at trial witnesses not listed above for impeachment and/or rebuttal purposes.

B. Defendant's witnesses:

1. Anthony Bender (in person)
2. David Covel (in person)

Plaintiff objects to this witness on the grounds that this witness did not appear in Defendants' briefing and there is no indication as to what testimony this new witness may offer and therefore no way for Plaintiff to rebut.

3. Laura D'Ambrosio (in person)
4. Patricia Delgenio (in person)
5. Lucy Goldstein (in person)
6. Connie Midlar (in person)

Plaintiff objects to this witness on the grounds that this witness did not appear in Defendants' briefing and there is no indication as to what testimony this new witness may offer and therefore no way for Plaintiff to rebut.

7. Richard Pietranski (in person)

Plaintiff objects to this witness on the grounds that this witness did not appear in Defendants' briefing and there is no indication as to what testimony this new witness may offer and therefore no way for Plaintiff to rebut.

8. Jim Powers (in person)
9. Christine Rowland (in person)

Plaintiff objects to this witness on the grounds that this witness did not appear Defendants' briefing and there is no indication as to what testimony this new witness may offer and therefore no way for Plaintiff to rebut.

Defendant reserves the right to call any witnesses at trial listed by Plaintiff above or to not call any of the witnesses identified by Defendant. In addition, Defendant reserves the right to call at trial witnesses not listed above for impeachment and/or rebuttal purposes.

V. LIST OF EXPERT WITNESSES

1. Plaintiff's expert witness: None
2. Defendant's expert witness: None

Plaintiff reserves the right to amend this list up until the time of trial. Plaintiff is unable to ascertain the information and production to which he will be privy prior to the Court's decision regarding Plaintiff's Mar. 20, 2013 Objection to Magistrate Judge Tomlinson's Orders Regarding Discovery or to Defendant completing production.

IV. DEPOSITION TESTIMONY

- A. Plaintiff will offer the following deposition testimony in his case in chief:

Deponent	Page(s)/Line(s)	Objections
Lucy Goldstein	13:20-14:7	Relevance
Lucy Goldstein	14:15-15:19	Relevance
Lucy Goldstein	61:18-21	Relevance
Lucy Goldstein	66:5-8	Relevance
Lucy Goldstein	79:2-5	Relevance
Lucy Goldstein	92:7-19	Relevance
Lucy Goldstein	79:15-21	
Lucy Goldstein	88:17-89:3	
Lucy Goldstein	3:19-21	
Patricia DelGenio	13:16-14:16	Relevance
Patricia DelGenio	54:7-61:16	Relevance
Patricia DelGenio	61:19-67:5	Relevance
Patricia DelGenio	78:9-83:25	
Patricia DelGenio	84:12-85:25	Relevance

- B. Defendant will offer the following deposition testimony in its case in chief:

Deponent	Page(s)/Line(s)	Objections
Plaintiff	30:8-31:18	Lack of foundation
Plaintiff	33:8-23	
Plaintiff	35:14-17	Lack of foundation
Plaintiff	36:5-37:5	
Plaintiff	37:12-15	Lack of foundation
Plaintiff	44:5-7	
Plaintiff	51:17-55:8	
Plaintiff	57:12-58:6	Irrelevant, misleading
Plaintiff	61:22-62:4	Irrelevant, misleading
Plaintiff	66:9-67:25	Lack of foundation; irrelevant; misleading
Plaintiff	73:4-10	Lack of foundation

Plaintiff	74:3-6	Lack of foundation
Plaintiff	75:12-18	
Plaintiff	85:13-87:11	Irrelevant
Plaintiff	95:14-98:10	
Plaintiff	104:22-105:7	
Plaintiff	110:14-111:4	Lack of foundation
Plaintiff	113:6-11	Lack of foundation
Plaintiff	146:16-147:5	
Plaintiff	148:12-18	
Plaintiff	156:10-17	Lack of foundation
Plaintiff	159:16-160:9	

VI. EXHIBITS

A. The following table lists the exhibits that Plaintiff expects to offer as evidence at trial:⁴

Ex. No.	Description	Party	Defendant's Objections
1	Plaintiff's tax 4eturn, federal, 2006	Plaintiff	Authenticity; Relevance
2	Plaintiff's tax return, state, 2006	Plaintiff	Authenticity; Relevance
3	Plaintiff's tax return, federal, 2007	Plaintiff	Authenticity; Relevance
4	Plaintiff's tax return, state, 2007	Plaintiff	Authenticity; Relevance
5	Plaintiff's tax return, federal, 2008	Plaintiff	Authenticity; Relevance
6	Plaintiff's tax return, state, 2008	Plaintiff	Authenticity; Relevance

⁴ Plaintiff is unable to submit a complete list of exhibits for introduction to the jury unless or until the Defendant is directed to produce the outstanding discovery that he has sought with the Court's guidance since December 2012. *See also n.3 supra.*

Ex. No.	Description	Party	Defendant's Objections
7	Plaintiff's tax return, federal, 2009	Plaintiff	Authenticity; Relevance
8	Plaintiff's tax return, state, 2009	Plaintiff	Authenticity; Relevance
9	Plaintiff's tax return, federal, 2010	Plaintiff	Authenticity; Relevance
10	Plaintiff's tax return, state, 2010	Plaintiff	Authenticity; Relevance
11	Plaintiff's tax return, federal, 2011	Plaintiff	Authenticity; Relevance
12	Plaintiff's tax return, state, 2011	Plaintiff	Authenticity; Relevance
13	Plaintiff's tax return, federal, 2012	Plaintiff	Authenticity; Relevance
14	Plaintiff's tax return, state, 2012	Plaintiff	Authenticity; Relevance
15	Plaintiff's Charge of Discrimination submitted to the Equal Employment Opportunity Commission ("EEOC") Bates stamped FRIEDMANN001-08	Plaintiff	
16	EEOC's Notice of Right to Sue issued Dec. 19, 2011 Bates stamped FRIEDMANN009-10	Plaintiff	
17	Plaintiff's earnings and commissions during 2010-11 Bates stamped FRIEDMANN011-22	Plaintiff	Relevance
18	Associate Sales Projection and Flash Report Bates stamped FRIEDMANN023-25	Plaintiff	Relevance
19	Associate Business Planner Bates stamped FRIEDMANN026	Plaintiff	Relevance

Ex. No.	Description	Party	Defendant's Objections
20	Associate Bedding Budget Bates stamped FRIEDMANN027	Plaintiff	Relevance
21	Plaintiff's Earnings Statement from subsequent employer, La-Z-Boy Bates stamped FRIEDMANN066	Plaintiff	Authenticity
22	Plaintiff's Earnings Statement from subsequent employer, Jos. A Bank Bates stamped FRIEDMANN067	Plaintiff	Authenticity
23	Plaintiff's Unemployment Insurance for 2011 Form 1099-G Bates stamped FRIEDMANN068	Plaintiff	Authenticity
24	Plaintiff's pension Form 1099-R Bates stamped FRIEDMANN070	Plaintiff	Authenticity
25	Plaintiff's health insurance claim documents Bates stamped FRIEDMANN029–54, FRIEDMANN056–62	Plaintiff	Authenticity
26	Plaintiff's Social Security benefits statement Bates stamped FRIEDMANN063–65, FRIEDMANN069	Plaintiff	Authenticity

Ex. No.	Description	Party	Defendant's Objections
27	Defendant's document production during discovery Bates stamped D 000001–D 000448	Plaintiff	Plaintiff purports to designate Defendant's entire document production. Defendant's position is that this designation does not comply with the Court's rules. Defendant reserves all objections. To the extent a statement of objections is required, Defendant's objections may include, but are not limited to, relevance.
28	Letters regarding COBRA, Aug. 24, 2011 Bates stamped D 000001–02	Plaintiff	Relevance
29	Letter regarding benefits at Plaintiff's termination, June 29, 2011 Bates stamped D 000002–09	Plaintiff	Relevance
30	Document regarding life insurance, June 29, 2011 Bates stamped D 000010	Plaintiff	Relevance

Ex. No.	Description	Party	Defendant's Objections
31	Payroll documents for Plaintiff Bates stamped D 000011–13, D 000016	Plaintiff	
32	Notice of Plaintiff's at-will status, Oct. 7, 2009 Bates stamped D 000014–15	Plaintiff	
33	Email to and from payroll department Bates stamped D 000017–19, D 000031	Plaintiff	Relevance
34	Automatic pay plan changes, Oct. 21, 2005 Bates stamped D 000020	Plaintiff	Relevance
35	Plaintiff's application to work for Defendant, Oct. 20, 2005 Bates stamped D 000021–22	Plaintiff	
36	New hire report Bates stamped D 000023–24, D 000449	Plaintiff	Relevance
37	Plaintiff's Form W-4, 2005 Bates stamped D 000025–26	Plaintiff	Relevance
38	Defendant's internal at-hire documentation regarding Plaintiff Bates stamped D 000027–30	Plaintiff	Relevance
39	Plaintiff's direct deposit authorization Bates stamped D 000032–34	Plaintiff	Relevance
40	<i>Horarium</i> for Plaintiff Bates stamped D 000035	Plaintiff	Relevance
41	Performance Evaluation and Development Form for Plaintiff annotated "GREAT MONTH" Bates stamped D 000036	Plaintiff	Relevance

Ex. No.	Description	Party	Defendant's Objections
42	Performance Evaluation and Development Form for Plaintiff dated June 7, 2008, annotated "Works well [sic] of all" Bates stamped D 000037	Plaintiff	Relevance
43	Performance Evaluation and Development Form for Plaintiff dated Aug. 17, 2008, annotated "has had a bad month—vacations—etc." Bates stamped D 000038	Plaintiff	Relevance
44	Coaching for Success plan for Plaintiff, purportedly signed by manager only, May 7, 2011 Bates stamped D 000039	Plaintiff	
45	Coaching for Success plan for Plaintiff, signed May 23, 2011 Bates stamped D 000042–44	Plaintiff	
46	Sales performance evaluation, purportedly for Jan. 1–June 3, 2011 Bates stamped D 000045	Plaintiff	
47	Annotated document, Nov. 11, 2008 Bates stamped D 000046	Plaintiff	Relevance
48	Annotated document, Nov. 1, 2008 Bates stamped D 000047	Plaintiff	Relevance
49	Weekly Associates Commission Statement, Dec. 19, 2009–Jun. 24, 2011 Bates stamped D 000048–D 000126	Plaintiff	Relevance
50	EEOC letter to Defendant, Dec. 12, 2011 Bates stamped D 000127–28	Plaintiff	

Ex. No.	Description	Party	Defendant's Objections
51	EEOC Charge of Discrimination produced by Defendant, signed Oct. 21, 2011 Bates stamped D 000129–31	Plaintiff	
52	EEOC Notice of Right to Sue produced by Defendant, mailed Dec. 19, 2011 Bates stamped D 000132–33	Plaintiff	
53	Defendant's production entitled "Professional Conduct & Anti-Harassment Awareness Raymour & Flanigan Furniture" Bates stamped D 000134–57	Plaintiff	
54	Defendant's production entitled "Professional Conduct & Harassment Awareness Training for Associates" Bates stamped D 000158–73	Plaintiff	
55	Defendant's No Discrimination and No Harassment Policy signed Mar. 7, 2010 Bates stamped D 000175	Plaintiff	
56	Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture signed by Plaintiff Mar. 7, 2010 Bates stamped D 000176	Plaintiff	
57	Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture signed by Lucy Goldstein, Nov. 1, 2006 Bates stamped D 000177	Plaintiff	
58	Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture signed by Laura Lee D'Ambrosio, July 30, 2007 Bates stamped D 000178	Plaintiff	

Ex. No.	Description	Party	Defendant's Objections
59	Raymour & Flanigan Furniture Associate Handbooks Bates stamped D 000179–408	Plaintiff	
60	Email from Laura D'Ambrosio regarding Plaintiff, June 21, 2011 Bates stamped D 000409	Plaintiff	
61	Lucy Goldstein's "Receipt and Acknowledgment of Raymour & Flanigan Associate Handbook and Acknowledgement of At-Will Employment Status" and Addendum signed Nov. 4, 2009 Bates stamped D 000410–11	Plaintiff	
62	Lucy Goldstein's "Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture" signed Oct. 1, 2007 Bates stamped D 000412	Plaintiff	
63	Lucy Goldstein's "Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture" signed Nov. 1, 2006 Bates stamped D 000413	Plaintiff	
64	IRS Form W-4 for Lucy Goldstein, signed Mar. 18, 2006 Bates stamped D 000414–15	Plaintiff	Relevance
65	Email from HR to Lucy Goldstein, Sept. 19, 2005 Bates stamped D 000416	Plaintiff	Relevance
66	New Hire information for Lucy Goldstein, Nov. 10, 2004 Bates stamped D 000417, D 000447	Plaintiff	Relevance
67	Lucy Goldstein's application for employment, signed Sept. 23, 2004 Bates stamped D 000418–19	Plaintiff	Relevance

Ex. No.	Description	Party	Defendant's Objections
68	IRS Form W-4 for Lucy Goldstein, signed Nov. 10, 2004 Bates stamped D 000420	Plaintiff	Relevance
69	Lucy Goldstein's Withholding Allowance Certificate Bates stamped D 000421-22	Plaintiff	Relevance
70	Lucy Goldstein's Information Technology Access Request Forms signed Nov. 10, 2004 Bates stamped D 000423	Plaintiff	Relevance
71	Lucy Goldstein's Raymour & Flanigan Furniture 1099 Stats Bates stamped D 000424	Plaintiff	Relevance
72	Lucy Goldstein's Direct Deposit Authorization, Nov. 10, 2004 Bates stamped D 000425	Plaintiff	Relevance
73	Lucy Goldstein Sales Agreement Form, Nov. 10, 2004 Bates stamped D 000426-27	Plaintiff	Relevance
74	Email from Heather Lukowski to Rebecca Landon regarding Lucy Goldstein, Aug. 23, 2011 Bates stamped D 000428	Plaintiff	Relevance
75	Lucy Goldstein record of medical leave, Aug. 2011 Bates stamped D 000429	Plaintiff	Relevance
76	Emails regarding Lucy Goldstein between Patricia DelGenio, Erin Brundige, Jenna Casullo, Christine Crosby, and Lucy Goldstein, Aug. 9, 2011 Bates stamped D 000430	Plaintiff	Relevance
77	Email from Heather Lukowski to Rebecca Landon regarding Lucy Goldstein, Aug. 8, 2011 Bates stamped D 000431	Plaintiff	Relevance

Ex. No.	Description	Party	Defendant's Objections
78	Email regarding Lucy Goldstein from Aubrey Branagan to Rebecca Landon, Feb. 7, 2011 Bates stamped D 000432	Plaintiff	Relevance
79	Lucy Goldstein "2011 Sales Pay Plan Changes" purportedly effective Jan. 1, 2011 (redacted by Defendant) Bates stamped D 000433	Plaintiff	Relevance
80	Emails between Lucy Goldstein and Rebecca Landon regarding Lucy Goldstein's Aug. 1, 2010 punch-out time, Aug. 9, 2010 Bates stamped D 000434	Plaintiff	Relevance
81	Record of pay plan increase for Lucy Goldstein, purportedly effective Jan. 2, 2010 Bates stamped D 000435	Plaintiff	Relevance
82	Email from Holly Heinze-Coolican to Christine Crosby regarding <i>inter alia</i> Lucy Goldstein's hours, July 21, 2009 Bates stamped D 000436	Plaintiff	Relevance
83	Payroll documents for Lucy Goldstein, Oct. 2008 Bates stamped D 000437	Plaintiff	Relevance
84	Payroll documents for Lucy Goldstein, Apr. 2007 Bates stamped D 000438	Plaintiff	Relevance
85	Payroll documents for Lucy Goldstein, Oct. 2006 Bates stamped D 000439, D 000441	Plaintiff	Relevance
86	Lucy Goldstein Automatic Pay Plan Changes, Sept. 23, 2006 Bates stamped D 000440	Plaintiff	Relevance

Ex. No.	Description	Party	Defendant's Objections
87	Emails between Payroll Department and Michael Goldberg and Laurie Hammon regarding Lucy Goldstein, Mar.–Apr. 2005 Bates stamped D 000442–44	Plaintiff	Relevance
88	Photocopy of Lucy Goldstein's New York State Driver License Bates stamped D 000445	Plaintiff	Relevance
89	Photocopies of a blank check of Lucy Goldstein's ⁵ Bates stamped D 000446, D 000448	Plaintiff	Relevance
90	Memorandum and Order deciding Defendant's Motion to Dismiss, Oct. 16, 2012 Docket Entry 24	Plaintiff	

⁵ Named therein as "LUCY M. GOLDSTEIN."

Ex. No.	Description	Party	Defendant's Objections
91	Transcript of the Deposition of Patricia DelGenio, Raymour & Flanigan's witness pursuant to FED. R. CIV. P. 30(b)(6), Feb. 13, 2013	Plaintiff	Plaintiff purports to designate the entire transcript as a trial exhibit. Defendant objects and states its position that this designation does not comply with the Court's rules. Defendant reserves all objections. To the extent a statement of objections is required, Defendant's objections may include, but are not limited to, hearsay and relevance.

Ex. No.	Description	Party	Defendant's Objections
92	Transcript of the Deposition of Lucy Goldstein, Feb. 22, 2013	Plaintiff	<p>Plaintiff purports to designate the entire transcript as a trial exhibit. Defendant's position is that this designation does not comply with the Court's rules. Defendant reserves all objections. To the extent a statement of objections is required, Defendant's objections may include, but are not limited to, hearsay and relevance.</p>

Ex. No.	Description	Party	Defendant's Objections
93	Transcript of Plaintiff's Deposition, Jan. 4, 2013	Plaintiff	Plaintiff purports to designate the entire transcript as a trial exhibit. Defendant objects and states its position that this designation does not comply with the Court's rules. Defendant reserves all objections. To the extent a statement of objections is required, Defendant's objections may include, but are not limited to, hearsay and relevance.
94	Defendant's Answer with Affirmative Defenses, Nov. 14, 2012 Docket Entry 26	Plaintiff	
95	Plaintiff's Objection to Magistrate Judge Tomlinson's Orders Regarding Discovery, Mar. 20, 2013 Docket Entry 46	Plaintiff	Relevance

Ex. No.	Description	Party	Defendant's Objections
96	Notice of Filing of Official Transcript (<i>Exhibit A</i> to Plaintiff's Objection to Magistrate Judge Tomlinson's Orders Regarding Discovery, Mar. 20, 2013) Docket Entry 46-1	Plaintiff	Relevance
97	Transcript of Status Conference before Magistrate Judge Tomlinson, Feb. 26, 2013 (<i>Exhibit B</i> to Plaintiff's Objection to Magistrate Judge Tomlinson's Orders Regarding Discovery, Mar. 20, 2013) Docket Entry 46-2	Plaintiff	Relevance
98	Excerpt from Transcript of the Deposition of Lucy Goldstein, Feb. 22, 2013 regarding the spurious and recent nature of Defendant's representation of Ms. Goldstein (<i>Exhibit C</i> to Plaintiff's Objection to Magistrate Judge Tomlinson's Orders Regarding Discovery, Mar. 20, 2013) Docket Entry 46-3	Plaintiff	Relevance
99	Letter to the Court outlining the discovery of which it had only just become aware, initially filed Feb. 25, 2013 (<i>Exhibit D</i> to Plaintiff's Objection to Magistrate Judge Tomlinson's Orders Regarding Discovery, Mar. 20, 2013) Docket Entries 41 and 46-4	Plaintiff	Relevance
100	Notice of the Deposition of Defendant's representative pursuant to FED. R. CIV. P. 30(b)(6) and its own <i>Exhibit A</i> . (<i>Exhibit E</i> to Plaintiff's Objection to Magistrate Judge Tomlinson's Orders Regarding Discovery, Mar. 20, 2013) Docket Entry 46-5	Plaintiff	Relevance

Ex. No.	Description	Party	Defendant's Objections
101	Plaintiff's Second Amended Motion to Compel Defendant to Produce Discovery, initially filed Feb. 8, 2013 (<i>Exhibit F</i> to Plaintiff's Objection to Magistrate Judge Tomlinson's Orders Regarding Discovery, Mar. 20, 2013) Docket Entry 46-6	Plaintiff	Relevance

Plaintiff reserves the right to use any exhibits at trial listed below by Defendant or to not use any of the exhibits identified by Plaintiff. In addition, Plaintiff reserves the right to use at trial exhibits not listed above for impeachment and/or rebuttal purposes.

A. Defendant's Exhibits for its Case-In-Chief:

Exhibit	Description	Bates Number(s)	Plaintiff's Objection
A	Payroll Connection Form regarding Plaintiff's termination	D 000011	
B	Plaintiff's Receipt and Acknowledgment of Raymour & Flanigan Associate Handbook and Acknowledgment of At-Will Employment Status	D 000014	
C	Plaintiff's Receipt and Acknowledgment of Addendum to the Associate Handbook	D 000015	
D	Payroll Connection Form regarding Plaintiff's transfer to Garden City showroom	D 000016	
E	Plaintiff's Employment Application	D 000021- 000022	
F	Plaintiff's Sales Agreement Form	D 000029 - 000030	
G	Undated Performance Evaluation for Plaintiff	D 000036	
H	June 7, 2008 Performance Evaluation for Plaintiff	D 000037	
I	August 17, 2008 Performance Evaluation for Plaintiff	D 000038	

J	May 7, 2011 Coaching for Success Plan for Plaintiff	D 000039- 000040	
K	May 23, 2011 Coaching for Success Plan for Plaintiff	D 000041- 000042	
L	June 13, 2011 Action Plan & Performance Agreement for Plaintiff	D 000043- 000044	
M	Performance Evaluation and Development Form for 2011 for Plaintiff	D 000045	
N	Plaintiff's 2010 Commission Statements	D 000049- 000101	
O	Plaintiff's 2011 Commission Statements	D 000102- 000126	
P	Professional Conduct & Anti-Harassment Awareness Presentation	D 000134- 000157	
Q	Professional Conduct & Harassment Awareness Training for Associates Presentation	D 000158- 000175	
R	Plaintiff's March 7, 2010 Receipt of No Discrimination and No Harassment Policy	D 000175- 000176	
S	Lucy Goldstein's November 1, 2006 Receipt and Acknowledgement of Harassment Training	D 000177	
T	Laura D'Ambrosio's January 30, 2007 Receipt and Acknowledgment of Harassment Training	D 000178	
U	Laura D'Ambrosio's June 21, 2011 E-mail regarding Plaintiff	D 000409	
V	Raymour & Flanigan's March 2010 Associate Handbook	D 000179 - 000254	
W	Raymour & Flanigan's February 2, 2011 Associate Handbook	D 000355 – 000331	
X	Raymour & Flanigan's May 25, 2011 Associate Handbook	D 000332 - 000408	

Defendant reserves the right to use any exhibits at trial listed by Plaintiff above or to not use any of the exhibits identified by Defendant. In addition, Defendant reserves the right to use at trial exhibits not listed above for impeachment and/or rebuttal purposes.

Dated: May 6, 2013

s/
Walker G. Harman, Jr. [WH-8044]
Peter J. Andrews [PA-3295]
THE HARMAN FIRM, PC
Attorneys for Plaintiff
200 West 57th Street, Suite 900
New York, New York 10019
(212) 425-2600
wharman@theharmanfirm.com
pandrews@theharmanfirm.com

/s/
Tara Eyer Daub, Esq. [TE-7943]
Jessica Chiclacos, Esq. [JG-2534]
NIXON PEABODY LLP
Attorneys for Defendant Raymour & Flanigan
50 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 832-7500
tdaub@nixonpeabody.com
jchiclacos@nixonpeabody.com

SO ORDERED:

Hon. Leonard D. Wexler
United States District Judge